IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN
AT JAIPUR BENCH, JAIPUR

O R D E R

S.B. CRIMINAL REVISION PETITION NO. 123/2004

NARENDRA SINGH RATHORE
Vs.
SUPERINTENDENT OF POLICE, C.B.I.

DATE: 23.04.2007.

HON'BLE MR. K.S. RATHORE, J.

Mr. M.K. Sharma for the accused-petitioner.
Mr. S.P. Tyagi, for respondent C.B.I.

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The present criminal revision petition under Section 397/401 Cr.P.C. is preferred by the accused-petitioner against the order dated 04.11.2003 passed by the Special Judge, CBI Cases, Jaipur in Criminal Misc. Application No. 35/2003, whereby the application for allowing the petitioner to operate his bank account has been rejected.

Learned counsel for the accused-petitioner submits that in this account petitioner's salary is deposited and the respondent cannot seize or prohibit operation of the bank account as being a salary account and placed reliance on the judgment rendered by the Hon'ble Supreme Court in the case of **State of Punjab Vs. Baldev Singh, reported in 1999 SC 2378, more**

particularly para Nos. 41 and 42.

Leaned counsel for the petitioner further submits that in the case of the petitioner the respondent has discriminated and without seeking permission from the Court of law, has seized or prohibited the petitioner to operate his bank account.

Per contra, learned counsel Mr. Tyagi appearing for the respondent CBI referred Section 16 of the Prevention of Corruption Act, 1988 which reads as under:-

> **"16. Matter to be taken into consideration for fixing fine.-** where a sentence of fine is imposed under sub-section (2) of section 13 or section 14, the court is fixing the amount of the fine shall take into consideration the amount or the value of the property, if any, which the accused person has obtained by committing the offence or where the conviction is for an offence referred to in clause (e) of sub-section (1) of section 13, the pecuniary resources or property referred to in that clause for which the accused person is unable to account satisfactorily."

After referring Section 16 of the Prevention of Corruption Act, 1988, the learned counsel for the respondent CBI placed reliance on the judgment rendered by the Hon'ble Supreme Court in the case of **State of Maharashtra Vs. Tapas D. Neogy, reported in 1999**

Cri.L.J. 4305, whereby it has been held that power of police to seize property- “Bank account” of accused or any of his relation is “property” within meaning of Section 102- Police officer in course of investigation can seize or prohibit operation of said “Bank account”.

I have heard rival submissions of the respective parties and have also gone through the impugned order dated 04.11.2003 passed by the Special Judge, CBI Cases, Jaipur.

The Court below after considering the judgment rendered by the Hon'ble Supreme Court in the case of **State of Maharashtra Vs. Tapas D. Neogy (supra),** has disallowed the application of the petitioner dated 18.08.2003 and not allowed the petitioner to operate his bank account.

Upon careful perusal of the judgments referred by the respective parties and the relevant provisions of Section 16 of the Prevention of Corruption Act, 1988, since the police officer in course of investigation is authorised to seize or prohibit operation of the bank account, I find no illegality or error in the impugned order dated 04.11.2003 passed by the Special Judge, CBI Cases, Jaipur not allowing the petitioner to operate his bank account and at this

stage I do not want to interfere in the impugned order dated 04.11.2003 while exercising revisionary powers.

Consequently, the revision petition fails and the same is hereby dismissed.

(K.S. RATHORE),J.

/KKC/